

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MARIA SANCHEZ,
Plaintiff,

v.

WAL-MART STORES, INC., and
WAL-MART STORES TEXAS, LLC,
Individually and D/B/A
Wal-Mart Store #2612,
Defendants.

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Civil Action No. 3:18-cv-367

WAL-MART'S¹ NOTICE OF REMOVAL

1. This Notice of Removal is filed under 28 U.S.C. § 1441 based on diversity of citizenship.

I. BACKGROUND

2. This case originated in the 327th Judicial District Court of El Paso County, Texas, under Cause No. 2018-DCV-3456.²

3. Plaintiff asserts state law claims for premises liability,³ alleging that she “tripped and fell” and that “[a] thin, hanging weight scale had an object protruding from the floor, creating a large uneven surface.”⁴

4. Written notice of removal has been given to Plaintiff and the state court clerk.

5. Plaintiff’s Original Petition was served on Wal-Mart on November 1, 2018,⁵ thus removal is timely under 28 U.S.C. § 1446(b).

¹ Wal-Mart Stores, Inc. and Wal-Mart Stores Texas, LLC will collectively be called Wal-Mart.

² See Exh. A, Plaintiff’s Original Petition, P. 1.

³ Exh. A, Plaintiff’s Original Petition, ¶ 12-13.

⁴ Exh. A, Plaintiff’s Original Petition, ¶ 11.

⁵ See Exh. B, CT Corporation service document.

6. The El Paso Division of the Western District of Texas embraces the place where the state court case was pending, thus venue is proper under 28 U.S.C. §§ 1441(a) and 124(d)(3).
7. Wal-Mart answered in state court⁶ and reserves the right to plead further as permitted.
8. All documents filed in state court are attached as Exhibit A.

II. BASIS FOR REMOVAL

9. This case is being removed based on diversity of citizenship under 28 U.S.C. § 1441(b).

A. Diversity of Citizenship

10. Plaintiff is a citizen of Texas.⁷
11. Neither Wal-Mart entity sued is a citizen of Texas.
12. Wal-Mart Stores Texas, LLC is a limited liability company which was formed under the laws of the State of Delaware and whose principal place of business is in Bentonville, Arkansas. Wal-Mart Real Estate Business Trust is the sole member of Wal-Mart Stores Texas, LLC. Wal-Mart Property Co. is the sole unit holder of Wal-Mart Real Estate Business Trust. Wal-Mart Stores East, LP is the sole owner of Wal-Mart Property Co. Wal-Mart Stores East, LP is a limited partnership which was formed under the laws of the State of Delaware and whose principal place of business is in Bentonville, Arkansas. WSE Management, LLC is the sole general partner, and WSE Investment, LLC is the sole limited partner, of Wal-Mart Stores East, LP. WSE Management, LLC and WSE Investment, LLC are both limited liability companies which were formed under the laws of the State of Delaware and whose principal

⁶ See Exh. A, Wal-Mart's Original Answer.

⁷ See Exh. A, Plaintiff's Original Petition, ¶ 2.

place of business is in Bentonville, Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC. Wal-Mart Stores East, LLC is a limited liability company whose principal place of business is in Bentonville, Arkansas. Wal-Mart Stores, Inc. is the sole member of Wal-Mart Stores East, LLC. Wal-Mart Stores, Inc. is a corporation which was formed under the laws of the State of Delaware and whose principal place of business is in Bentonville, Arkansas.⁸

13. As noted above, Wal-Mart Stores, Inc. is a corporation formed under the laws of the State of Delaware with its principal place of business in Arkansas.⁹

14. Thus, the parties are completely diverse.

B. Amount in Controversy

15. Plaintiff seeks damages “of more than \$200,000.00 but less than \$1,000,000.00,”¹⁰ thereby exceeding the \$75,000 amount in controversy required by 28 U.S.C. § 1332(a).

III. JURY DEMAND

16. Wal-Mart paid for a state court jury trial and requests a jury trial in this Court.

IV. PRAYER

17. Wherefore, Wal-Mart asks that this case be placed on the Court’s docket and for any other relief to which it may be justly entitled at law or in equity.

⁸ Exh. C, Affidavit of Geoffrey W. Edwards. *See also Lindsey v. Walmart*, No. 3:10-CV-1587-L, 7 (N.D. Tex. Nov. 30, 2010) (holding that “[n]one of the Wal-Mart [e]ntities [sued] [which included Wal-Mart Stores, Inc., and Wal-Mart Stores Texas, LLC] is a citizen of...Texas”).

⁹ *See* preceding footnote.

¹⁰ Exh. A, Plaintiff’s Original Petition, ¶ 9.

Respectfully submitted,

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CERTIFICATE OF SERVICE

In compliance with the Federal Rules of Civil Procedure, I certify that on this 29th day of November, 2018, a true and correct copy of the foregoing document was served on Plaintiff's attorneys of record as follows:

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/s/ Laura Enriquez
Laura Enriquez